IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CRIMINAL MISC. PETITION NO.921/2006
(Surendra Singh VS. State of Rajasthan)

DATE OF ORDER : 05/12/2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. R.C.Joshi for the petitioner.
Mr. Ashok Upadhyaya, public prosecutor for the State

By the instant petition under section 482 Cr.P.C. the petitioner has challenged order dated 29.5.2006 passed by Judicial Magistrate, Vijaynagar, (for short 'the trial court' hereinafter), whereby the trial court dismissed the application filed by the petitioner seeking interim custody of Tractor bearing No. RNC-6668 seized by the police in FIR Case No. 70/2006 Police Station, Vijaynagar for the offence under Sections 41-42 of the Forest Act. Aggrieved by the impugned order, the petitioner has filed the instant petition.

I have heard learned counsel for the parties. Carefully gone through the order impugned.

It is contended by the learned counsel for the petitioner that one Jesaram obtained permission from Tehsildar

for cutting two trees from his agriculture field for his personal use vide order dated 19.4.2006 and deposited the amount for the said purpose. The petitioner being the registered owner of the said tractor transported the woods of the two trees at the request of Jesaram the owner of the wood. This Court vide order dated 21.11.2006 released the wood in favour of Jesaram in S.B.Cr. Misc. Petition No. 1495/06. The trial court without assigning cogent reason declined to give interim custody of the tractor in favour of the petitioner.

It appears from the material on record that the petitioner transported the small amount of wood in the said tractor cut from the agriculture field of Jesaram who obtained permission from the concerned Tehsildar for cutting the said trees for his personal use and thus according to learned counsel for the petitioner the woods of said two tress of Jesaram which were transported in the tractor in question were under the valid permission of Tehsildar (revenue) from Chak 4 BPM Kila No.11 and therefore, prima-facie no offence is made out. Even otherwise, the permission was valid from 10.4.2006 to 25.4.2006 and on 18.4.2006 the tractor was intercepted while transporting the woods under the said permission. Therefore, it is clear from the material on record that the woods which the petitioner carried in his tractor were not the forest produce.

In Sunderbhai Ambalal Desai Vs. State of Gujarat, JT 2002 (10) SC 80, the Hon'ble Supreme Court held that whatever be the situation, it is of no use to keep seized vehicles at the police station for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of the applications for return of such vehicles.

Having regard to the facts and circumstances of the case and the fact that the trial court fell in error in not considering the material placed before it while declining to release the vehicle in favour of the petitioner, in my view, the ends of justice would be met if the vehicle in question is released on Supardginama in favour of the petitioner on his furnishing personal and solvent security bonds.

In the result, the petition is allowed. The order impugned is set aside and it is directed that the vehicle in question shall be released on Supardginama in favour of the petitioner on furnishing a personal bond in the sum of Rs.1 lac and one solvent security bond of like amount, to the satisfaction of the trial court to produce the vehicle in question as and when called upon to do so with the condition incorporated therein that

he will maintain and keep the vehicle in the same condition and shall not alienate, alter or transfer the vehicle during pendency of the case as also shall not allow the vehicle to be used for transporting any forest produce in contravention of the Forest Act.

(H.R.PANWAR),J.

rp.